

Notice of Allowability

Application No.

09/759,875

Examiner

D. I. Lee

Applicant(s)

KRUPA, JEROME L.

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 7/13/05.
2. ☒ The allowed claim(s) is/are 96-104.
3. ☒ The drawings filed on 12 January 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

1. Receipt is acknowledged of the Amendment filed 13 July 2005. Claims 1-95 and 105-109 have been canceled and no claims have been newly added. Currently, claims 96-104 are remain pending in the application.

Allowable Subject Matter

2. Claims 96-104 are allowed.

3. The following is an examiner's statement of reasons for allowance:

Blanford discloses a system having a primary label having a single layer and a first machine-readable bar code and a supplemental label attached the product or container. The supplemental label having a second machine readable bar code with a specific alignment with respect to the first bar code (i.e., the supplemental label is attached in close proximity to the primary label and the first bar code and the second bar code are substantially aligned side-by-side, such that the second bar code is positioned as to partially obscure the first bar code). Wherein the first bar code label provides information about a particular product (i.e., product identity) and the second bar code label identifies the particular product information desired to be distributed to a consumer, e.g., an indication that the identified product has been marked down. The system includes a scanner capable of reading both the first and the second bar code and subsequently comparing the second bar code with the first to determine if the second bar code corresponds to the first bar code. Further, the supplemental label of Blanford having many portions (i.e., an upper portion having an upper left portion and an upper right portion, a lower portion having a lower left portion and a lower right portion, a left portion, a right portion, and a center portion, and etc.). Thus, one of the above portions from the supplemental label of Blanford is aligned with the first bar code on the primary label.

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One of ordinary skill in the art would not have been motivated to modify the teachings of Blanford, alone or in combination with other references, in order to provide a pharmaceutical container having a symbol with specifics claimed single-layered label having first outer boundary portion and second outer boundary portion extending out and away from the outer boundary of the first portion and wherein the second portion having a patient identifying indicium aligned with the symbol of the container so as to allow both the symbol and the indicium to be scanned together by a detector in order to confirm the contents of the pharmaceutical container, as set forth in the claim.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. I. Lee whose telephone number is (571) 272-2399. The examiner can normally be reached on Monday through Thursday from 5:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read 'D. I. Lee'.

D. I. Lee
Primary Examiner
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D. L.